

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES SEABA, et al.,

Plaintiffs,

vs.

Civ. No. 02-103 LH/WWD

MESOSYSTEMS TECHNOLOGY, INC.,

Defendant.

INITIAL SCHEDULING ORDER

This cause is assigned to me for scheduling, case management, discovery, and other non-dispositive motions. The Federal Rules of Civil Procedure as amended in 1993, as well as the local rules of the Court shall apply to this law suit. Civility and professionalism will be required of counsel. Counsel should read "A Lawyer's Creed of Professionalism of the State Bar of New Mexico".

The parties, appearing through counsel or pro se, shall "meet and confer" no later than **APRIL 18, 2002** to formulate a provisional discovery plan. Fed. R. Civ. P. 26(f). The time for discovery, generally 120 to 150 days, will run from the Rule 16 initial scheduling conference. The provisional discovery plan shall be filed with the Court no later than **APRIL 29, 2002**.

The parties will cooperate in preparing an Initial Pre-Trial Report (IPTR) which will follow the sample IPTR form obtainable from the Court Clerk.¹ The blanks for dates should not be filled in. Plaintiff, or Defendant in removed cases, is responsible for submitting the IPTR to my

¹Please contact the Clerk's Office to obtain a copy of the new standardized Initial Pre-Trial Report form adopted by Administrative Order dated May 11, 1995, and amended by the Court in May 1997. See Attachment "A" which contains the amended language concerning pretrial motions.

office by **APRIL 29, 2002**. Good cause must be shown and Court approval obtained for any modification of the IPTR schedules.

Initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made within ten days of the meet and confer session.

A Rule 16 scheduling conference will be held in my chambers on **THURSDAY, MAY 9, 2002, at 10:00 A.M.** At the Rule 16 scheduling conference Counsel shall be prepared to discuss discovery needs and scheduling, all claims and defenses, the use of scientific evidence and whether a Daubert² hearing is needed, initial disclosures, and the timing of expert disclosure and reports under Fed. R. Civ. P. 26(a)(2). We shall also discuss settlement prospects and alternative dispute resolution possibilities. Client attendance is not required. Out-of-town counsel may appear by telephone if prior arrangements are made with opposing counsel and the Court.

Pre-trial practice in this cause shall be in accordance with the foregoing.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

²**Daubert v. Merrell Dow Pharmaceuticals**, 113 S.Ct. 2786 (1993).

NOTICE TO FEDERAL PRACTITIONERS

The standard Initial Pre-trial Report Form has been revised under the paragraph entitled "Other Pretrial Motions" as follows:

Motion "packages" containing the original and one copy of all papers relating to a motion (i.e., the motion, response and reply, with any accompanying memoranda or exhibits) as required by D.N.M. LR-Civ. 7.3(5) must be filed with the Court no later than _____. Any pretrial motion "package" filed after the above date shall be considered untimely in the discretion of the Court.

The revised form is available on the Internet at the Federal District Court web site or on disk and hard copy format at the Clerk's Office.

ATTACHMENT "A"